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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,266	09/13/2005	Hans Stoop	97086-00064	1656

27614 7590 02/12/2007
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EXAMINER

WERNER, JONATHAN S

ART UNIT	PAPER NUMBER
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3732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/549,266	Applicant(s) STOOP, HANS	
	Examiner Jonathan Werner	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/13/05
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/11/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 5/11/06 is noted. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner. However, Examiner notes that document "2002/028422" as cited by Applicant should be cited as "2002/0028422."

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8, 12 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1-2 and 5-6, it is not clear either from the claim language or the supporting specification what Applicant constitutes as a "cutting manner," a "non-cutting manner," and a "weakly cutting manner." For the purpose of examination, it will be understood by Examiner that the "manner" in which

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the device is formed is related to the corresponding process of making the device.

Additionally, claims 4, 8, 12 and 15 are rejected for being multiple dependent claims which depend on existing multiple dependent claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-5 and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Guedj (US 5,871,356). As to claims 1 and 5, Guedj discloses a drill that is capable of being used either as a pilot drill or a step drill in a drilling procedure to create a hole for receiving a dental implant, in which Figures 8 and 9 show the drill comprises a chamfered pilot tip at the apical end with cutting edges, a step which transitions from the guide region (portion to the left of the step) to the neck (portion to the right of the step), wherein said neck region is shown to have a larger diameter than the guide portion, and wherein Figure 8 demonstrates the step and guide each has a cutting edge. Figures 8 and 9 also clearly show a drill stem (24) above the neck which is adjoined by a coupling (rightmost projection next to said stem), and at least one spiral groove with adjacent bevels. Examiner notes that Applicant is claiming an article of manufacture, however, in steps (i)-(l), Applicant claims the process of forming/making the device. Accordingly, the manner in which the device is formed, i.e. in a cutting-

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manner, is treated as a product-by-process and hence given little patentable weight since the cutting edges shown by Guedj are similarly used for cutting purposes. With regard to claims 4 and 8, Examiner notes Applicant has claimed statements of intended use, i.e. the drill works to produce an adequate implant site for a dental implant. Such statements of intended use and other functional statements do not impose any further structural limitations on the device claims distinguishable over the prior art of record, which is capable of being used as desired to create a hole for a dental implant (see Figure 10), and accordingly, are given little patentable weight.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guedj. Guedj discloses the drill as previously described, including the disclosure of various tip/neck diameters and lengths. Furthermore, as to claims 3, Guedj additionally shows in Figures 8 and 9 that the drill has two cutting edges and has two tip cutting edges, two chamfers, two spirals that extend continuously from the coronal end of the neck to the tip, two step cutting edges, two bevels, and a number of visible depth markings characterized in the differing shape of each segment of the drill. Guedj also discloses that the drill can have a guide diameter in the region of 1.5 mm and a neck

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diameter in the region of 2.0 mm (column 6, lines 35-47) wherein the specific size is dependent on the external diameter of the dental implant eventually to be used.

However, Guedj does not explicitly disclose a guide length from 1.0 to 4.0 mm or that the tip angle is in the region of 80°. Still, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to make the guide have a length of between 1.0 to 4.0 mm or the tip angle approximately 80° since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art, and wherein the appropriate size required for the drill is dependent on the size of the implant to later be installed. *In re Aller*, 105 USPQ 233. Examiner notes that in regard to claim 7, Guedj does show in Figure 8 that the drill has three cutting edges, three tip cutting edges, three chamfers, three guide cutting edges, three spirals, three bevels, and wherein the tip angle is more than 90° as shown in Figure 9.

Claims 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guedj in view of Bradley (US 3,564,945). Guedj shows the specifics of the particular drill being claimed as described in detail above, though fails to explicitly disclose the use of a drill set comprising a collection of different sized drills. Bradley, however, discloses a set of similar step drills provided together, wherein each successive drill in the set has increased dimensions (column 3, lines 53-61). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to provide a set of drills each having differing dimensions in order to have a desired cutting head for a

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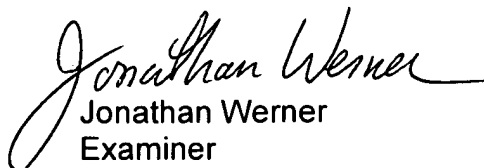
wide range of sizes as taught by Applicant, whereby the different sizes can account for various size implants.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Werner whose telephone number is (571) 272-2767. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jonathan Werner
Examiner

2/4/07


CRIS RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700